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**Commission on
Judicial Performance**

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STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING
JUDGE PATRICK B. MURPHY,
NO. 157.

FIRST AMENDED NOTICE OF
FORMAL PROCEEDINGS

To Patrick B. Murphy, a judge of the Los Angeles County Municipal Court, Citrus Judicial District, from January 3, 1993, to February 9, 2000, and a judge of the Los Angeles County Unified Superior Court from February 10, 2000, to the present.

Preliminary investigation pursuant to Rules of the Commission on Judicial Performance, rules 109 and 111, having been made, the Commission on Judicial Performance has concluded that formal proceedings should be instituted to inquire into the charges specified against you herein.

By the following allegations, you are charged with willful misconduct in office, persistent failure or inability to perform your judicial duties, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, improper action and dereliction of duty within the meaning of Article VI, section 18 of the California Constitution providing for removal, censure, or public or private admonishment of a judge or former judge, to wit:

COUNT ONE

A. You were absent from court and did not otherwise perform your judicial duties on approximately eighty and one-half (80½) court days between January 1 and December 31, 1996.

B. You were absent from court and did not otherwise perform your judicial duties on approximately sixty-six and one-half (66½) court days between January 1 and December 31, 1997.

C. You were absent from court and did not otherwise perform your judicial duties on approximately ninety-six (96) days between January 1 and December 31, 1998.

D. You were absent from court and did not otherwise perform your judicial duties on approximately one hundred fifty-nine and one-half (159½) days between January 1 and December 31, 1999.

E. At the time of service of the original Notice of Formal Proceedings on February 29, 2000, you had been absent from court and had failed to otherwise perform your judicial duties since approximately September 20, 1999, with no indication as to when you might resume your judicial duties. On approximately April 3, 2000, you returned to your judicial duties at court. You have again been absent since approximately mid-June 2000.

Your conduct constitutes persistent failure or inability to perform your judicial duties, and violates the Code of Judicial Ethics, canons 1, 2A, 3A and 3C(1).

COUNT TWO

During the above listed periods of absence from court (as referenced in count one), you absented yourself from the country and otherwise engaged in activities that constituted a failure to give judicial duties precedence over all other activities, interfered with the proper performance of judicial duties, and were

inconsistent with being medically unable to perform judicial duties while you were taking sick leave and/or claiming a medical disability, as follows:

A. On approximately 16 dates in 1996, 1997 and 1998, while you were absent from work taking sick leave, you taught or co-taught evening classes at Glendale University College of Law. You also taught a night class at the Baldwin Park Police Department Citizen's Academy during the week of March 22, 1999, during a period when you were absent from work taking sick leave.

B. On March 30, 1999, while you were absent from work taking sick leave, you attended and testified at your deposition in the matter of *Smith Barney v. George Taus, et al.* USDC Case No. 98-8903. On October 28, 1999, November 2, 1999, December 14, 1999 and December 20, 1999, while you were absent from work taking sick leave, you attended and testified at your deposition in the matter of *In re George Taus*, No. LA 98-57175-TD.

C. On approximately July 10, 1999, you enrolled in Cleveland Chiropractic College – Los Angeles and began taking prerequisite courses for medical school. From approximately late September 1999 through December 1999, while you were absent from work taking sick leave, you attended and completed the following courses taught in the evening and on weekends at Cleveland Chiropractic College – Los Angeles: Physics II Lecture and Lab, Organic Chemistry I Lecture and Lab, General Chemistry II Lecture and Lab, and Organic Chemistry II Lecture and Lab. You earned a B grade in Physics II Lecture and an A grade in each of the other courses.

D. On approximately September 30, 1999, while you were absent from work taking sick leave for a period that continued through March 2000, you started the application process for Ross University Medical School, located on the island of Dominica in the West Indies. On October 2, 1999, you stated on a Ross University application form that you had no disabilities that would interfere with the study or practice of medicine.

In November 1999, you completed the College Level Examination Program in Biology, earning a score in the 99th percentile.

On November 29, 1999, you had an interview at the Glendale, California office of Ross University. Although you mentioned that you had a thyroid condition that you controlled with medication, you told the interviewer that you had no health problems.

On December 16, 1999, you were accepted at Ross University Medical School. On approximately December 21, 1999, you obtained a certificate of good health from a physician. On December 27, 1999, you purchased a round trip airline ticket for travel from Los Angeles to the island of Dominica on January 1, 2000, with a return to Los Angeles on April 22, 2000.

On January 1, 2000, while you were still absent from work taking sick leave, you went to Dominica for the purpose of attending medical school, without resigning your judgeship. You remained out of the country until approximately January 14, 2000.

Your conduct violated canons 1, 2A, 3A and 4A(3).

COUNT THREE

In 1999, you exhibited a lack of candor to your presiding judge, and otherwise failed to cooperate in the administration of court business, as follows:

A. On January 22, 1999, during a discussion regarding a recent absence from court with Judge Treu, who was then the Presiding Judge of the Municipal Court, Citrus Judicial District, you told Judge Treu that a tumor which you had had removed in 1996 was malignant, when in fact it was benign. Your intent was to mislead Judge Treu regarding past and/or future absences.

B. On March 26, 1999, you told Judge Treu that you would not be at work during the week of March 29, 1999, because you were undergoing medical tests. You took sick leave for the week of March 29, 1999. On March 30, 1999, you

appeared and testified at a deposition in the *Smith Barney* lawsuit referred to in count one. You did not undergo medical tests during the week of March 29, 1999.

C. You failed to provide a doctor's note for the period of absence from October 21, 1999 to November 16, 1999, despite three letters from Judge Treu requesting some documentation.

D. You did not inform Judge Treu that you had left the United States to attend medical school, or of your whereabouts when you were out of the country. Judge Treu learned that you were out of the country when it was reported in the newspapers.

E. During the week of January 3, 2000, while you were out of the country, you failed to return a ballot regarding court unification which had been faxed to your home, and failed to return telephone calls from a judicial secretary regarding the ballot and other court business.

Your conduct violated canons 1, 2A and 3C(1).

COUNT FOUR

From the time period of at least approximately September 23, 1999 to April 3, 2000, you were malingering, in that you have falsely claimed to be ill and/or medically disabled for the purpose of continuing to collect your salary without performing your judicial duties.

Your conduct violated canons 1, 2A, 3A, 3C(1) and 4A(3).

YOU ARE HEREBY GIVEN NOTICE, pursuant to Rules of the Commission on Judicial Performance, rule 118, that formal proceedings have been instituted and shall proceed in accordance with Rules of the Commission on Judicial Performance, rules 101-138.

Pursuant to Rules of the Commission on Judicial Performance, rules 104(c) and 119, you must file a written Answer to the charges against you within twenty (20) days after service of this notice upon you. The Answer shall be filed with the

Commission on Judicial Performance, 455 Golden Gate Avenue, Suite 14400, San Francisco, California 94102-3660. The Answer shall be verified and shall conform in style to subdivision (c) of rule 15 of the Rules on Appeal. The Notice of Formal Proceedings and Answer shall constitute the pleadings. No further pleadings shall be filed and no motion or demurrer shall be filed against any of the pleadings.

This Notice of Formal Proceedings may be amended pursuant to Rules of the Commission on Judicial Performance, rule 128(a).

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE

DATED: Sept 5, 2000


HON. DANIEL M. HANLON
CHAIRPERSON

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STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING JUDGE
PATRICK MURPHY,
NO. 157.

ACKNOWLEDGMENT OF SERVICE
OF THE FIRST AMENDED NOTICE
OF FORMAL PROCEEDINGS

I, Judge Patrick Murphy, hereby waive personal service of the First Amended Notice of Formal Proceedings in Inquiry No. 157 and agree to accept service by mail. I acknowledge receipt of a copy of the First Amended Notice of Formal Proceedings by mail and, therefore, that I have been properly served pursuant to Rules of the Commission on Judicial Performance, rule 118(c).

Dated: _____

9/9/00

Patrick B. Murphy
Judge Patrick Murphy, Respondent